

Serial No. 09/863,101

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

1.-20. Cancelled

21. (currently amended) A method for identifying and treating a patient disposed to respond favorably to a HER2 antibody, huMAB4D5-8, for treating breast cancer, which method comprises detecting her2 gene amplification in tumor cells in a tissue sample from the patient and treating the patient with her2 gene amplification with the HER2 antibody in an amount effective to treat the breast cancer, wherein the patient's tumor cells express HER2 at a 0 or 1+ level by immunohistochemistry.

22-25. Cancelled

26. (previously presented) The method of claim 21 wherein Her2 gene amplification is detected by detecting fluorescence of a fluorescent-labeled nucleic acid probe hybridized to the gene.

27. (new) The method of claim 21 wherein a formaldehyde-fixed sample of the patient's tumor cells has been subjected to an immunohistochemistry assay and found to express HER2 at a 0 or 1+ level.

28. (new) The method of claim 27 wherein the immunohistochemistry assay is performed prior to detecting her2 gene amplification.

29. (new) The method of claim 21 which further comprises administering a cancer treating dose of a chemotherapeutic drug.

30. (new) The method of claim 29 wherein the chemotherapeutic drug is a taxoid.

31. (new) A method for identifying and treating a breast cancer patient disposed to respond favorably to a HER2 antibody which inhibits cellular proliferation of HER2-overexpressing human breast tumor cells, which method comprises detecting her2 gene amplification in tumor cells in a tissue sample from the patient and treating the patient with her2 gene amplification with the HER2 antibody in an

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amount effective to treat the breast cancer, wherein the patient's tumor cells express HER2 at a 0 or 1+ level by immunohistochemistry.